

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT ASHLEY,	§
	§ No. 152, 2004
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 9605003410
	§
Plaintiff Below-	§
Appellee.	§

Submitted: January 13, 2006

Decided: March 27, 2006

Before **HOLLAND, JACOBS** and **RIDGELY**, Justices.

ORDER

This 27th day of March 2006, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Robert Ashley, an inmate at the Delaware Correctional Center, Smyrna, Delaware (“DCC”), was found guilty by a Superior Court jury of Murder in the First Degree and Possession of a Deadly Weapon During the Commission of a Felony in connection with the death of a fellow inmate.¹ Ashley was sentenced to life imprisonment

¹ Ashley, who was permitted to proceed pro se at trial, also is proceeding pro se in this appeal.

without parole on the murder conviction and to a consecutive 20-year Level V sentence on the weapon conviction. This is Ashley's direct appeal.²

(2) In April 1996, Ashley fatally stabbed Thomas "Bruce" Younger with a homemade blade weapon known as a "shank" during recreation period (known as "rec") in the F Tier of the Maximum Security Unit ("MSU") of DCC. Ashley had known Younger for several years. Approximately six months before the incident, Ashley and Younger were assigned to the same housing unit in MSU. During that time, they frequently played handball during rec, but their relationship was tense, apparently because of racial and cultural differences.

(3) In March 1996, Ashley and Younger became involved in a physical confrontation. After a handball game in which Ashley and Younger accused each other of cheating, Younger stabbed Ashley with a shank. Several weeks later, Ashley and Younger again clashed during rec time. Ashley had hidden a shank in his clothing and fatally stabbed Younger in the heart. The blade portion of the shank was later found in Ashley's cell. At trial, Ashley testified that he stabbed Younger in self-defense. Another

² In 1996, Ashley was charged with first-degree murder, possession of a deadly weapon during the commission of a felony and promoting prison contraband. The jury found him guilty of the contraband charge, but was unable to reach a verdict on the other two charges. On retrial, Ashley was convicted of the murder and weapon charges and was sentenced to death. On appeal, this Court reversed the convictions. *Ashley v. State*, 798 A.2d 1019 (Del. 2002). In 2003, Ashley was retried on the murder and weapon charges, resulting in the convictions that are the subject of this appeal.

inmate, who had witnessed the stabbing, testified that Ashley's attack was unprovoked.

(4) Ashley represented himself at trial, with the assistance of court-appointed standby counsel. In December 2004, standby counsel filed a motion requesting the imposition of contempt sanctions against the Department of Correction ("DOC") on the ground that DOC personnel had interfered with Ashley's prosecution of his direct appeal by denying him access to needed legal materials. This Court denied the motion because Ashley had failed to present a sufficient factual basis for his claim.³

(5) Ashley now claims that: (a) DOC personnel interfered with the prosecution of his direct appeal; and (b) his standby counsel provided ineffective assistance.

(6) Ashley's first claim that DOC personnel interfered with the prosecution of his direct appeal is the same claim he advanced in his previous motion. This Court's denial of that motion constitutes the law of the case unless Ashley can demonstrate clear error or an important change in circumstances.⁴ Ashley has failed to present any evidence of error or

³ *Ashley v. State*, Del. Supr., No. 152, 2004, Steele, C.J. (Feb. 14, 2005).

⁴ *Bailey v. State*, 521 A.2d 1069, 1093 (Del. 1987).

changed circumstances to support this Court's reconsideration of his claim. Therefore, that claim must be denied.⁵

(7) Ashley's second claim is that his standby counsel provided ineffective assistance. This claim was never presented to the Superior Court in the first instance. It is well-established that this Court will not consider a claim of ineffective assistance of counsel for the first time on direct appeal.⁶ Because Ashley's claim has not been fully addressed by the Superior Court, we decline to address it here.

(8) This Court has reviewed the record carefully and has concluded that Ashley's appeal is wholly without merit and devoid of any arguably appealable issue.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **AFFIRMED**.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

⁵ *Brittingham v. State*, 705 A.2d 577, 579 (Del. 1998).

⁶ *Desmond v. State*, 654 A.2d 821, 829 (Del. 1994).